



Botswana

Country Reports on Human Rights Practices - [2002](#)

Released by the Bureau of Democracy, Human Rights, and Labor

March 31, 2003

Botswana is a longstanding, multiparty democracy. Constitutional power is shared between the President and a popularly elected National Assembly. The House of Chiefs, representing all of the country's major tribes and some smaller ones, has no legislative power but may offer its views to both the President and National Assembly on legislation. Festus Mogae became President in 1998 and continued to lead the Botswana Democratic Party (BDP), which has held a majority of seats in the National Assembly continuously since independence. The 1999 elections generally were regarded as free and fair, despite initial restrictions on opposition access to radio and press reports of ruling party campaign finance improprieties. In that election, the BDP increased its majority in the National Assembly and President Mogae was elected to his first full term. The Government generally respected the constitutional provisions for an independent judiciary in practice.

The civilian Government maintained effective control of the security forces. The military, the Botswana Defense Force (BDF), primarily was responsible for external security, although it did assist with domestic law enforcement on a case by case basis. The Botswana National Police (BNP) primarily were responsible for internal security. Some members of the security forces, in particular the police, occasionally committed human rights abuses.

The economy was market oriented with strong encouragement for private enterprise and has achieved rapid sustained real per capita economic growth. Nearly 50 percent of the population of approximately 1.7 million was employed in the informal sector, largely subsistence farming and animal husbandry. Rural poverty remained a serious problem, as did a widely skewed income distribution. Per capita gross domestic product increased to \$3,956 from \$3,486 in 2000, according to 2001 Bank of Botswana figures. Diamond exports provided more than two-thirds of the country's export income and much of the revenue of the Government, which owned half of a company engaged in the production of diamonds from existing mines.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. There were reports that the police sometimes beat or otherwise mistreated criminal suspects in order to obtain evidence or coerce confessions. The authorities took action in some cases against officials responsible for such abuses. Prison conditions were poor and overcrowded, although the Government made efforts to address the problem by constructing new detention facilities. In many instances, the judicial system did not provide timely fair trials due to a serious and increasing backlog of cases. The Government coerced Basarwa to relocate outside of the Central Kalahari Game Reserve (CKGR) during the year. The Government continued to dominate domestic broadcasting and limited freedom of the press. Some citizens, including groups not numbered among the eight "principal tribes" of the Tswana nation, the majority ethnic group, remained marginalized in the political process. Violence and discrimination against women remained serious problems. Trade unions continued to face some legal restrictions, including those against the right to strike, and the Government did not always ensure that labor laws were observed in practice. Botswana was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution explicitly prohibits such practices, and the Government generally respected this prohibition in practice; however, instances of abuse occurred. There were reports that police sometimes used beatings and other forms of intimidation in order to obtain evidence or elicit confessions. However, in general beatings and other forms of extreme physical abuse were rare. In some cases, the authorities took disciplinary or judicial action against persons responsible for abuses. Although coerced confessions were inadmissible in court, evidence gathered through coercion or abuse may be used in prosecution.

In previous years, there were reports that BDF soldiers at the Dukwe refugee camp beat and abused Dukwe residents. In 2000 one refugee applicant claimed that BDF soldiers beat him for allegedly stealing a bag of sugar. A formal investigation was conducted and the soldiers were issued a warning. Following the incident, all BDF soldiers were removed from Dukwe.

During the year, there were allegations that police used excessive force in repatriating Zimbabweans who fled across the border into the country; however, local nongovernmental organizations (NGOs) were not able to confirm reports of mistreatment (see Section 2.d.).

Unlike in the previous year, there were no reports that government game wardens abused the Basarwa (Bushmen) in the CKGR.

Customary courts continued to impose corporal punishment sentences in the form of lashings on the buttocks, generally against young offenders in villages for crimes such as vandalism, theft, and delinquency.

Prison conditions remained poor, and conditions largely remained unchanged during the year. Conditions in all prisons generally were poor, although women's prisons were less crowded than men's prisons. A 2000 report by the Botswana Prisons Service to the Commissioner reportedly denied government responsibility for the conditions of prisons; however, the report was not released publicly. With the country's high incidence of HIV/AIDS and tuberculosis, prison overcrowding was a serious health threat. The Government and prison authorities were aware of the problem, and cooperated fully with the Center for Disease Control in a study on the prevalence of tuberculosis in the prisons. HIV/AIDS testing and U.N. Development Program (UNDP) peer counseling was available to all prisoners. There were reports that some prisoners died in custody from HIV/AIDS related illnesses.

The 23 prisons across the country had a capacity of approximately 3,300 inmates but held 5,829 at year's end. Construction of a new prison for male juvenile offenders was delayed due to lack of funds, and it was scheduled to open in August 2003. The Prison Commissioner has the authority to release terminally ill prisoners who were in the last 12 months of their sentences and allow citizen prisoners with sentences of 12 months or less to perform "extramural" labor. By year's end, the Government had released more than 1,000 prisoners under the program. Foreign prisoners were required to serve out their entire sentences.

The Prisons Act makes it illegal for prison officials to mistreat prisoners. When there is an allegation or suspicion of mishandling of prisoners by prison officials, the Department of Prisons is required to forward the case to the police for investigation. In 2000 the Minister of Presidential Affairs and Public Administration stated that stiff penalties would be imposed on prison officials who treat inmates improperly.

Men were held separately from women, and juveniles were held separately from adults; however, pretrial detainees were held in the same facilities as convicted prisoners.

The Prisons Act provides for a governmental visiting committee for each prison, the members of which are appointed by the Minister of Labor and Home Affairs. Members of these committees serve 1-year terms, must visit their prison four times within their first term, and issue a report both to the Commissioner of Prisons and the Minister of Labor and Home Affairs. These reports normally were not released to the public. During the year, the committees visited each prison quarterly. The committees issued another report during the year to the Minister of Labor and Home Affairs; however, the report was not released to the public.

While the Prisons Act grants relatives, lawyers, magistrates, and church organizations the right to visit prisoners for

"rehabilitative purposes," the Commissioner of Prisons has the authority to decide whether domestic and international human rights organizations may visit. Independent monitoring of prison conditions by human rights groups, the media, or the International Committee of the Red Cross (ICRC) was allowed if these organizations sought permission from the Commissioner of Prisons; however, none of these groups sought permission during the year. In the past, some local human rights organizations were granted access to visit specific prisoners.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Suspects must be informed of their legal rights upon arrest, including the right to remain silent. Detainees must be charged before a magistrate within 48 hours. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. Detainees had the right to contact a family member and to hire attorneys of their choice, but in practice most were unable to afford legal counsel. Poor police training and poor communications in rural villages made it difficult for detainees to obtain legal assistance, and authorities did not always follow judicial safeguards. The Government did not provide counsel for the indigent, except in capital cases. Most citizens charged with noncapital offenses were released on their own recognizance; some were released with minimal bail. Detention without bail was highly unusual, except in murder cases, where it was mandatory. Constitutional protections were not applied to illegal immigrants, although the constitutionality of denying them due process has not been tested in court.

Pretrial detention was prolonged in a large number of cases. In Gaborone Central Prison, the average wait in prison before trial was 1 year. The Government attempted to alleviate the backlog of cases by temporarily hiring more judges and held a referendum in 2001 in which voters authorized amending the Constitution to raise the retirement age of judges from 65 to 70; however, several magistrates resigned during the year, and the backlog of cases increased.

The Government sometimes held newly arrived refugees and asylum seekers in local jails until they could be interviewed by the Botswana Council for Refugees (BCR) or the U.N. High Commissioner for Refugees (UNHCR) (see Section 2.d.). During the year, the Government completed construction of the Francistown Holding Center with a capacity of 504 illegal immigrants awaiting repatriation. There were 257 illegal immigrants in the holding center at year's end. BCR or the UNHCR interviewed immigrants claiming refugee status, and once persons were granted refugee status, the Government transferred them to the Dukwe Refugee Camp (see Section 2.d.). The five refugees from Namibia's Caprivi Strip who committed criminal offenses while at the Dukwe refugee camp remained in protective custody at Mahalapye Prison, despite a request from the Namibian Government that they be repatriated.

The law prohibits forced exile, and the Government did not use it in practice.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of both a civil court (including magistrates' courts, a High Court, and a Court of Appeal) and a customary (traditional) court system.

The law provides for the right to a fair trial; however, the civil courts remained unable to provide for timely, fair trials in many cases due to severe staffing shortages and a backlog of pending cases. Most trials in the regular courts were public, although trials under the National Security Act (NSA) may be held in secret. Those charged with noncapital crimes were tried without legal representation if they could not afford an attorney. As a result, many defendants may not be informed of their rights in pretrial or trial proceedings. The BCHR provided free legal services, but its capacity was limited. Another NGO, the University of Botswana Legal Assistance Center, provided free legal services in civil, but not criminal, matters.

In 1999 a High Court judge declared a mistrial in the case of two Basarwa (Bushmen) men who had been convicted in 1995 of murder and who were awaiting execution. Ruling that the two had been deprived of their constitutional rights, the judge ordered a new trial, which was scheduled for March 2003.

Most civil cases were tried in customary courts, under the authority of a traditional leader. These courts handled

minor offenses involving land, marital, and property disputes. In customary courts, the defendant does not have legal counsel, and there were no precise rules of evidence. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. The quality of decisions reached in the traditional courts varied considerably. In communities where chiefs and their decisions were respected, plaintiffs tended to take their cases to the customary court; otherwise, persons sought justice in the civil courts.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice, with the exception of the resettlement of the Basarwa out of the CKGR.

During the year, the Government coerced ethnic Basarwa (also known as the San or Bushmen) into abandoning their ancestral communities within the CKGR, and moved them to resettlement camps located outside the reserve (see Section 5). Government officials maintained that the resettlement program was voluntary and necessary in order to reduce the cost of providing public services and to minimize human impact on wildlife. The Government "assisted" the inhabitants to relocate and provided compensation for abandoned property. In some cases, the Government used intimidation and coercion to force families to leave the reserve. Government officials dismantled local houses and made it difficult to bring water into the reserve.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and the Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the Government attempted to limit freedom of the press and continued to dominate domestic broadcasting. The Government occasionally censored stories or news sources that it deemed undesirable.

The Government's Botswana Press Agency (BOPA) provided most of the information found in the media owned and operated by the Government: The free Daily News newspaper, Botswana Television (BTV), and two FM radio stations, Radio Botswana (RB1) and Radio Botswana 2 (RB2). RB1 operated from 5 a.m. to 12 a.m. daily, and RB2 operated 24 hours per day. News coverage in the state-owned media focused on the activities of government officials and supported government policies and actions. The Daily News also published general coverage of current events and issues and included a second front page in Setswana, the most commonly spoken language.

The independent press was small but vigorous and has a long tradition of candid discourse. It actively covered the political arena and frequently was critical of the Government and the President. The circulation of privately owned print media continued to be limited mostly to the main cities and towns. By year's end, seven privately owned weekly newspapers were published in Gaborone and distributed to the country's main cities and towns. One privately owned weekly newspaper was published in Francistown, the country's second-largest city. A total of nine privately owned monthly magazines were published nationally. These publications reported and editorialized without fear of closure.

Government officials sometimes complained of bias in the private press. However, government officials and other public figures have recourse to the courts if they believe that they have been libeled. Libel was a civil law matter; there were no criminal libel laws. In 2000 the Vice President filed a libel suit against the Botswana Guardian and the Midweek Sun newspaper, which was pending at year's end.

In April 2001, after a series of negative press stories about government officials, the Government directed all government agencies and parastatals to refrain from advertising in the Botswana Guardian and its sister newspaper, the Midweek Sun. While officials initially claimed that the decision was solely a financial one, officials admitted in court that the decision to ban advertising was meant to have a punitive nature during a lawsuit brought by the newspapers. In September 2001, the High Court overruled the decision to ban advertising and ordered the Government to pay the newspapers' legal fees; however, the Court's decision on whether depriving the newspapers of advertising revenue was an unconstitutional suppression of speech and of the press was pending at year's end.

Radio remained the most important medium of public communication; the circulation of privately owned print media continued to be limited mostly to the main cities and towns. In past years, the Government monopolized domestic radio broadcasting; however, two private radio stations, Yarona FM and Gabz FM, also broadcast. Both broadcast in 5 of the country's 10 largest towns; state-owned radio continued to be the only domestic radio service broadcasting to the rest of the country. Both private radio stations have a news component to their programming, with no discernible policy of supporting a particular political party. The law provides for the issuance of broadcast licenses to private companies and provides copyright protection of broadcast material; it also mandates the establishment of a National Broadcast Board, which grants broadcast licenses. In 2000 the Board held its first meeting at the Botswana Telecommunication Authority (BTA) offices in Gaborone; during the year, it issued its first broadcast lease.

In 2000 the Government opened BTV amid skepticism from the public and some parliamentarians over delays and overspending. BTV began broadcasting with technical and programming assistance from the British Broadcasting Corporation, and an emphasis on the Setswana language service. Transmission extended south from Gaborone to Lobatse, north to Serowe and Francistown, and was scheduled to be available throughout the country within a few years.

The debut of BTV generated considerable discussion among members of the public, parliamentarians, and government officials about whether its status as a government-owned station would interfere with its ability to function independently, especially with respect to reporting the news. In April Presidential Affairs and Public Administration Minister Daniel Kwelagobe criticized the government media for irresponsible reporting following stories about a kgotla (community) meeting in Molepolole, in which Bakwena tribesmen suggested that President Mogae's origins could be traced to Zimbabwe. The Minister, whose responsibility then included media matters, declared that stories for the Daily News, Radio Botswana, and Botswana Television would be censored in order to sanitize them. Other than these remarks, no real action was taken, and there were no instances of censorship reported during the year.

The opposition Botswana Congress Party (BCP) criticized government control over BTV, Radio Botswana, the Daily News, and BOPA and urged that they be privatized or turned into parastatals.

The privately owned Gaborone Broadcasting Company (GBC) broadcast mostly foreign made programming and was the only other television station operating in the country. GBC broadcasts reached viewers only in the capital area.

Independent radio and television broadcasts from neighboring South Africa were received easily in border areas. Satellite television from a South African-based company was available readily, although its cost prevented many persons from subscribing to the service.

Internet access continued to spread quickly. The Government did not restrict e-mail or Internet usage. Thirteen Internet service providers (ISPs) were available to the domestic market, up from four in the previous year. Botsnet is the commercial arm of the parastatal Botswana Telecommunications Corporation (BTC). While private ISPs were allowed to operate, they did so at a competitive disadvantage due to the larger bandwidths dedicated to Botsnet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. There were

no governmental barriers to domestic and international travel or emigration.

In January the Government required the Basarwa to relocate from the CKGR to one of three designated settlements outside of the reserve. The Government did not allow Basarwa who relocated to enter the CKGR without a permit, which was required of all visitors to enter the reserve; however, in November roadblocks around the CKGR became ineffective and several Basarwa reoccupied the territory (see Sections 1.f. and 5).

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the UNHCR and other humanitarian organizations in assisting refugees. The Government strictly applied a policy of first asylum. Refugee applicants who were unsuccessful in obtaining asylum were allowed to remain at Dukwe until the Government referred their cases to the UNHCR for resettlement; however, in some sensitive cases, the Government has used deportation. There were no such cases this year. The Government maintained a policy of considering asylum requests only from refugees from bordering countries; however, in practice the Government often considered refugee applications from Angolans. The BCR or the UNHCR interviewed immigrants claiming refugee status. Although the Government sometimes held newly arrived refugees in local jails until they could be interviewed by BCR or UNHCR officials, once persons were granted refugee status, the Government transferred them to the Dukwe Refugee Camp until their resettlement or voluntary repatriation (see Section 1.d.). There were 4,300 refugees at Dukwe by year's end; they were primarily from Namibia, Angola, and Somalia. At year's end, five refugees were being held in "protective custody" in Mahalapye Prison (see Section 1.d.).

Unlike the previous year, there were no reports that BDF soldiers beat or abused residents of the Dukwe refugee camp (see Section 1.c.).

During the year, there were allegations that police used excessive force in repatriating Zimbabweans who fled across the border into the country. The Deputy Commander of the Botswana Police Service and the Zimbabwean High Commissioner said that there was no truth to the allegations. Ditshwanelo, the Botswana Center for Human Rights, was not able to confirm reports of mistreatment.

More than 2,500 refugees from the Caprivi Strip in neighboring Namibia have fled to the country since 1998. Many were armed and linked to the ethnically based opposition groups based in the Caprivi Strip. Male refugees linked to such groups requested asylum based on their claim that they were being forced into the Namibian army to fight in the Democratic Republic of the Congo. The Government provided first asylum to all such persons. No refugee repatriation took place in 2001; however, between August 12 and October 17, approximately 1,000 Namibian refugees were voluntarily repatriated at the Ngoma border. This repatriation took place after a tripartite agreement between the Government, Namibia, and the UNHCR. The UNHCR head of liaison was satisfied with the dignified and orderly manner being accorded Namibian refugees by all parties to the tripartite agreement. There were approximately 1,300 Namibian refugees at the Dukwe refugee camp by year's end, and arrangements were being made for their repatriation in March 2003.

In December the High Court rejected Namibia's request to have 13 alleged Caprivi secessionists extradited to face charges of murder and high treason on the grounds that they would not receive a fair trial in Namibia. Human rights groups have applauded this decision. There was no further action taken by year's end.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal adult (18 years of age) suffrage. The President is elected by the National Assembly and is limited to two 5-year terms in office. Members of the BDP have held a majority of seats in the National Assembly and have controlled the presidency continuously since independence.

The House of Chiefs, an advisory body with limited powers, was restricted constitutionally to the eight "principal tribes" of the majority Tswana ethnic group and four elected chiefs representing smaller tribes, including the Bakalanga, Balozi, Humbukushu, and Bakgalagadi. Consequently other groups such as the Basarwa, Ovaherero, or Bayei were not represented there. Given the limited authority of the House of Chiefs, the impact of excluding other groups of citizens largely was symbolic, but some non-ethnic Tswana viewed it as important in principle. Following a study by the Balopi Commission, in December 2001, the Government released a policy paper recommending constitutional amendments to make the House of Chiefs more inclusive and ethnically neutral.

Parliament adopted its recommendations; however, no date was set for implementation. Members of the National Assembly were required to speak English.

Elections for the National Assembly were held in 1999 and generally were regarded as largely free and fair by domestic and international observers, despite preferential access for BDP candidates during much of the campaign to state-owned media including state-owned radio, the sole domestic source of news for most of the rural population (see Section 2.a.), and despite press reports of large anonymous campaign contributions to the ruling party, reportedly by international diamond interests. The BDP increased its majority in the National Assembly from 31 to 37 of 44 seats, thereby ensuring the election of its presidential candidate, incumbent President Mogae. Of the seven seats won by opposition parties in 1999, the Botswana National Front won six, and the BCP won one seat.

There were 406 district governments with elected councilors, but they had no fiscal autonomy and relied on the central Government for revenue.

The 1999 elections doubled the number of women serving in the National Assembly, from 4 to 8 of 44 members. The number of women serving in the cabinet also increased from 4 to 6 of 20 members. Of the 13 High Court justices, 1 was a woman.

During the year, one of the eight paramount Tswana-speaking tribes selected Mosadi Seboko to be the first female chief in tribal history.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups, including the BCHR, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and responsive to their views; however, some groups complained that the Government's cooperation was designed mainly to mute criticism and did not result in improved human rights conditions. Emang Basadi Women's Association and Women Against Rape were active on issues concerning women's rights, particularly rape and domestic violence (see Section 5). Survival International, the NGO that took up the cause of the Basarwa and protested their removal from the CKGR, was not obstructed in carrying out its situation assessments.

The Government cooperated with the UNHCR and UNICEF, as well as other international organizations.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution forbids governmental discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status, and the Government generally respected these provisions in practice. However, neither the Constitution nor the law prohibits discrimination by private persons or entities.

Women

Domestic violence against women remained a serious problem. Under customary law and in common rural practice, men have the right to "chastise" their wives. Police rarely were called to intervene in cases of domestic violence. Reports of sexual exploitation, abuse, and assault increased an estimated 18.4 percent during the year, in part due to public awareness of the problem and a willingness of victims to come forward. The national police force began training officers in handling domestic violence problems to make them more responsive in such cases. Although the Government has become far tougher in dealing with sexual assault, societal attitudes toward other forms of domestic violence remained lenient. Half of the murders of women were linked to histories of domestic violence. Human rights activists estimated that 6 women in 10 were victims of domestic violence at some time in their lives.

Rape was another serious problem, and given the high incidence of HIV/AIDS, sexual assault became an even more serious offense. By law the minimum sentence for rape was 10 years, with the minimum increasing to 15 years with corporal punishment if the offender was HIV-positive, and to 20 years with corporal punishment if the offender knew of his or her HIV status. The law does not address the issue of marital rape. Women's groups acknowledged an improvement in the treatment of alleged victims by police officials during rape investigations; however, they noted that police still lacked basic investigative knowledge of rape cases.

Sexual exploitation and harassment continued to be problems with men in positions of authority, including teachers, supervisors, and older male relatives who pressured women and girls to provide sexual favors. In 2000 the Government amended the Public Service Act to recognize sexual harassment as misconduct carrying penalties under the law. Greater public awareness and improved legal protection have led more victims of domestic violence and sexual assault to report incidents to the authorities. In May 2001, the Women's Affairs Department held a national workshop on violence toward women and issued a report that promoted the use of an integrated approach among all interested parties to gender based violence.

Women legally enjoyed the same civil rights as men; however, in practice societal discrimination persisted. A number of traditional laws enforced by tribal structures and customary courts restricted women's property rights and economic opportunities. A woman married under traditional law or in "common property" was held to be a legal minor and required her husband's consent to buy or sell property, apply for credit, and enter into legally binding contracts. Under the law, women married under an intermediate system, referred to as "in community of property," were permitted to own immovable property in their own names; however, their husbands still retained considerable control over jointly held assets of the marriage. Moreover, the law also stipulates that neither spouse can dispose of joint property without the written consent of the other party.

Women increasingly exercised the right to marriage "out of common property," in which case they retained their full legal rights as adults. Polygyny still was legal under traditional law with the consent of the first wife, but it rarely was practiced. The Government and local NGOs focused on constructive methods to address discrimination against women in the areas of marital power, legal disabilities, and proprietary consequences of marriage under common law, customary law, and the Married Persons Property Act. In 2001 the Government amended the marriage laws. Prior to the amendment, girls could be married with parental consent at age 14, and boys with parental consent at age 16. The new law sets the age of marriage with parental consent at 18 for both sexes, and at age 21 if parental consent is not given. All marriages must be registered, regardless of customary law or religious belief.

Well trained urban women enjoyed growing entry level access to the white collar job market, but the number of opportunities decreased sharply as they rose in seniority. Discrimination against women was most acute in rural areas where women engaged primarily in subsistence agriculture had few property rights.

Young women did not have access to military or national service training. Military service was voluntary for men only. The Government abolished its national service program in 2000, a program that previously allowed male and female high school graduates to serve in government departments, mostly in rural areas. In 2000 Parliament passed a resolution calling for young women to be allowed to serve in the BDF "as soon as practicable."

The Government and interested NGOs met regularly to implement the long term plan of action described in the National Policy on Women. The Women's Affairs Department of the Ministry of Labor and Home Affairs, in conjunction with the U.N. Development Program, developed the Program Support Document (PSD) in 1997, which provides a framework for implementation of the national policy on women until the end of the year. The Women's Affairs Department had not released a report on progress in the target areas at year's end.

A number of women's organizations emerged to promote the status of women, and the Government entered into a dialog with many of these groups. While some women's rights groups reportedly felt that the Government was slow to respond concretely to their concerns, women's NGOs stated that they were encouraged by the direction of change and by the increasingly collaborative relationship with government authorities. Major women's NGOs included the Emang Basadi Women's Association, which promoted the social, economic, and legal status of women and the Botswana Council of Women.

Children

The rights of children are addressed in the Constitution and the Children's Act. Under the law, the country has a court system and social service apparatus designed solely for juveniles. The Government started a 10-year program of action for children in 1997, incorporating the seven major global goals identified at the 1990 U.N. World Summit for Children. Laws pertaining to children continued to be under review to align them with the U.N. Convention on the Rights of the Child. The Adoption Act also continued to be reviewed to ensure that adopted children were provided for and not exploited as labor.

The Government provided 7 years of free primary education for children, although attendance was not compulsory. Government estimates of the proportion of children who never attended school ranged from 10 to 17 percent, and fewer than 20 percent of children completed secondary school; school attendance and completion rates were

highest in urban areas, and lowest in remote rural areas, especially those inhabited chiefly by Basarwa. In some cases, girls were denied schooling because of religious or customary beliefs. The Government continued to allocate the largest portion of its operating expenditures to the Ministry of Education, and the second largest portion to the Ministry of Local Government, which administered primary education. It also continued to allocate a large part of its investment expenditures to construct primary and secondary schools, so children have ready access to education. The literacy rate is 69 percent: 70 percent for females and 67 percent for males.

UNAIDS estimated that 38.8 percent of persons between the ages of 15 and 49 were infected with HIV/AIDS, and due largely to deaths from HIV/AIDS, 78,000 orphans were reported by UNICEF. However, 28 percent of babies born from HIV positive mothers were protected from the virus. Increasing numbers of children, mostly believed to be orphans, became beggars or prostitutes in urban areas. Relatives denied inheritance rights to orphans who were infected with HIV/AIDS.

There was no societal pattern of abuse against children, although incest and other forms of child abuse have received increased attention from the media and from local human rights groups.

Sexual harassment of students by teachers was a problem. Reports of rape and sexual assault of young women, and cases of incest and "defilement" of young girls appeared with greater frequency in the news. The age of sexual consent was 16. Child prostitution and pornography were criminal offenses, and the law stipulates a 10-year minimum sentence for "defilement" of persons under 16 years of age. In view of the belief held by some in southern Africa that intercourse with a virgin is a cure for HIV/AIDS, intergenerational sex (sexual relations between older men and girls) and the problems of teenage pregnancy caused by older men received extensive media attention during the year.

Persons with Disabilities

Employment opportunities for persons with disabilities remained limited. The Government did not require accessibility for public buildings and public conveyances for persons with disabilities, and the NGO community began to address the needs of persons with disabilities only during the last decade. The Government had a national policy that provides for integrating the needs of persons with disabilities into all aspects of government policymaking. The Government funded NGOs that provide rehabilitation services and supported small scale work projects by workers with disabilities.

Indigenous People

The Basarwa (also known as Bushmen or San), who now chiefly inhabit the Kalahari Desert, are the earliest known inhabitants of the country and were the only inhabitants until Bantu speaking groups arrived during the 16th century. They were linguistically, culturally, and often morphologically distinct from the rest of the population; however, they themselves were not a homogenous group. They remained economically and politically marginalized; they have lost access to their traditional land in fertile regions of the country and were vulnerable to exploitation by their non-Basarwa neighbors. Their isolation, ignorance of civil rights, and lack of political representation have stymied their progress. The estimated 52,000 to 65,000 Basarwa represented approximately 3 percent of the country's population. Although the Basarwa traditionally were hunter-gatherers, most employed Basarwa worked as agricultural laborers on cattle ranches that belonged to other ethnic groups. During the year, a substantial proportion of the Basarwa resided in government-created Remote Area Dweller settlements and subsisted on government social welfare benefits.

The colonial government established the 20,000 square mile CKGR in 1961 to protect the food supply of some Basarwa groups still pursuing a subsistence hunter-gatherer livelihood. Starting in 1995 the Government made a concerted effort to remove Basarwa from the CKGR and relocated the population to two newly created settlements just outside the reserve. Between 2000 and the end of 2001, the remaining CKGR communities and the Government negotiated to reach an accommodation for the population remaining in the reserve. This process culminated in several draft "CKGR Management Plans." The plans envisaged the formation of community use zones for the remaining communities and assumed the continued level of public service provided by the Government (water provision, healthcare services, and the distribution of old age, orphan, and destitute benefits). In August 2001, the Government delivered an ultimatum declaring that all current residents of the CKGR would be removed and relocated. The Government continued to accommodate the CKGR population until January, at which time all public services were terminated and subsistence hunting licenses were revoked. In April the Government required all Basarwa to leave the CKGR and resettle in the townships of Kaudwane New Xade, and Xere, where the facilities had to cope with a doubling of population without an increase in resources (see Section 1.f.).

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of workers' association. In practice all workers except public employees were free to join or organize unions of their own choosing. Government employees were not permitted to organize their own unions. The industrial or wage economy is small, and unions were concentrated largely in mineral extraction and to a lesser extent in the railway and banking sectors. There was only one major confederation, the Botswana Federation of Trade Unions (BFTU), but there were no obstacles to the formation of other labor federations. During the year, the BFTU and the Manual Workers' Union completed its merger into one union. In 2001 the Government authorized the Civil Service to organize its own union; however, the union was not established by year's end. Labor laws were not yet compliant with the International Labor Organization (ILO), but draft laws were scheduled to be presented to Parliament in 2003.

Unions were independent of the Government and were not closely allied with any political party or movement. Unions may employ full-time administrative staff, but the law requires elected union officials to work full time in the industry that the union represents. This rule severely limited union leaders' professionalism and effectiveness, and was criticized by the International Confederation of Free Trade Unions (ICFTU).

Workers may not be fired for union-related activities. Dismissals on other grounds may be appealed to labor officers or civil courts, but labor offices rarely ordered more than 2 months' severance pay.

Unions may join international organizations, and the BFTU was affiliated with the ICFTU. The Minister of Labor must approve any affiliation with an outside labor movement, but unions may appeal to the courts if an application for affiliation is refused.

b. The Right to Organize and Bargain Collectively

The Constitution provides for collective bargaining for unions that have enrolled 25 percent of a labor force. In reality only the mineworker and diamond sorter unions may have the organizational strength to engage in collective bargaining.

The law severely restricted the right to strike. Legal strikes theoretically were possible only after an exhaustive arbitration process. Sympathy strikes were prohibited. In August 2001, a consultancy appointed by the Government recommended that a separate pay structure from the rest of the public service be created for teachers. Teachers expected the separate pay structure to be implemented in April, the beginning of the government fiscal year. On September 25, after the Government failed to take any action, the teachers of the Botswana Federation of Secondary School Teachers (BOFESETE) went on a 3-day strike. Teachers struck again during exam time, from October 14 through October 21. The President stated he would appoint a new commission to hear the teachers' grievances and to consider the awarding of retroactive pay. The teachers did not strike again during the year.

In November the Botswana Unified Local Government Service Association (BULGSA) held a 2-week strike action protesting discrepancies between the salaries of local government employees and their central government civil service counterparts. The President again intervened and promised to appoint a new commission. In late November, University of Botswana academic and non-academic staff went out on strike over salaries, and quickly were joined by students protesting chaotic exam schedules. After demonstrations became disruptive, the university was shut down on December 6, 2 weeks earlier than it was scheduled to close. There were no legal strikes during the year.

The country has only one export processing zone (EPZ), located in the town of Selebi-Phikwe, and it was subject to the same labor laws as the rest of the country.

c. Prohibition of Forced or Bonded Labor

The Government does not prohibit forced and bonded labor, including by children; however, there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment of Children

Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 15 may be employed in any industry. Only persons over age 16 may be hired to perform night work, and no person under age 16 was allowed to perform hazardous labor, including mining. District and municipal councils had child welfare divisions, which were responsible for enforcing child labor laws. Because research on child labor was limited, it was difficult to state whether child labor laws were enforced effectively. However, the Labor Commissioner, officials of the Ministry of Local Government, Lands, and Housing, and UNICEF generally agreed that the child labor problem was limited to young children in remote areas who worked as cattle tenders, domestic laborers, and child care providers.

The law provides that adopted children may not be exploited for labor and protects orphans from exploitation as labor or coercion into prostitution.

The Government launched a 10-year program of action for children in 1997 (see Section 5); however, implementation has proceeded slowly.

e. Acceptable Conditions of Work

The minimum daily wage for most full time labor in the private sector was \$3.15 (17 pula), which remained less than 50 percent of what the Government calculated as necessary to provide a decent standard of living for a family. The Cabinet determined wage policy and decided based on recommendations made by the National Economic, Manpower and Incomes Committee (NEMIC), which consists of government, BFTU, and private sector representatives. The Ministry of Labor was responsible for enforcing the minimum wage, and each of the country's districts had at least one labor inspector. Civil service disputes were referred to an ombudsman for resolution. Private labor disputes were mediated by labor commissioners; however, an insufficient number of commissioners resulted in 1 to 2 year backlogs in resolving such disputes. The Industrial Court registered 288 cases during the year, and 205 were outstanding at year's end.

Formal sector jobs almost always paid well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food were included, frequently paid below the minimum wage. There was no mandatory minimum wage for domestic workers, and the Ministry of Labor did not recommend a minimum wage for them.

The law permits a maximum 48-hour workweek, exclusive of overtime, that is payable at time and a half for each additional hour. Most modern private sector jobs had a 40-hour workweek; however, the public sector changed to a 48-hour workweek.

The law provides that workers who complain about hazardous conditions may not be fired. However, the Government's ability to enforce its workplace safety legislation remained limited by inadequate staffing and unclear jurisdictions among different ministries. Nevertheless, employers generally provided for worker safety, with an occasional exception in the construction industry.

Illegal immigrants from poorer neighboring countries, primarily Zambians and Zimbabweans, were exploited easily in labor matters, since they would be subject to deportation if they filed grievances against their employers.

f. Trafficking in Persons

The law does not prohibit trafficking in persons, although penal code provisions cover such related offenses as abduction and kidnaping, slave trafficking, compulsory labor, and procuring women and girls for the purpose of prostitution; however, there were reports of trafficking. Although the law criminalizes child prostitution, there were reports that children who were orphaned by HIV/AIDS became prostitutes in urban areas (see Section 5).